

Jiang et al.

S/N: 10/707,405

ELECTION

Applicant elects, with traverse, what the Examiner has characterized as "Invention I", deemed drawn to a CT detector, and corresponding to claims 1, 3-4, 13-15, 17-21, and 34-44.

REMARKS

The Examiner has identified two 'inventions' in the pending claims. The Examiner's classification of the inventions include Group I consisting of claims 1, 3-4, 13-15, 17-21, 34-44 drawn to a CT detector and classified by the Examiner in class 378, subclass 19, and Group II consisting of claims 22 and 24-33 drawn to a method of CT detector manufacturing and classified by the Examiner in class 250, subclass 367.

The Examiner further objected to claims 15, 24-25, and 27 because of informalities. Applicant has amended claims 15, 24-25, and 27 with regard thereto and requests withdrawal of the objections.

Regarding the requirement for restriction, the Examiner may properly require restriction "to one of two or more claimed invention only if they are able to support separate patents and they are either independent . . . or distinct." *MPEP* §803. The Examiner identified inventions I and II as being related as process of making and product made under *MPEP* §806.05(f). *Office Action, Oct. 31, 2005, p. 2*. Nevertheless, "[i]f the search and examination of **>all the claims in an<** application can be made without serious burden, the examiner must examine **>them<** on the merits, even though **>they include<** claims to independent or distinct inventions." *MPEP* §803 (*emphasis added*). Furthermore, for a proper requirement for restriction, there must "be a serious burden on the examiner if restriction is **>not<** required." *Id.*

The Examiner indicated that restriction for examination purposes is proper because the inventions "have acquired a separate status in the art as shown by their different classification" and because "the search required for Group I is not required for Group II." *Office Action, supra at p. 2*. Applicant disagrees that restriction for examination purposes is proper because there is no serious burden on the Examiner to examine all claims.

Specifically, in the Office Action mailed August 4, 2005, the Examiner performed an examination and search of claims 1-33. In Applicant's response, filed August 17, 2005, Applicant amended claims 1, 15, and 22 to incorporate the subject matter of originally presented claims 2, 16, and 23, respectively. Notwithstanding the conclusion by the Examiner that Groups I and II are distinct under *MPEP* §806.05(f), claims 1, 3-4, 13-15, and 17-21 of Group I and claims

Jiang et al.

S/N: 10/707,405

22 and 24-33 of Group II have already been examined and searched. That is, there is no serious burden on the Examiner to rejoin Groups I and II for examination since the Examiner previously performed an examination and search of claims 1, 3-4, 13-15, 17-22, and 24-33, and the claims contain no new matter. Moreover, the Examiner has failed to show why restriction after an action on the merits on the claims would place a serious burden on the Examiner, as required at MPEP §811. Therefore, the Examiner must rejoin the claims.

Next, “[a] process of making and a product made by the process can be shown to be distinct inventions if . . . the product *as claimed* can be made by another * materially different process.” *MPEP §806.05(f) (emphasis in original)*. The Examiner stated that “the CT detector can be made by . . . not disposing a composite layer in the reflective layer.” (*Office Action, supra at p. 2*. Applicant respectfully disagrees.

Claim 37 of Group I calls for a CT detector that includes a reflector interstitially disposed between at least two adjacent scintillators, the reflector including a light absorption element disposed between a pair of reflective elements, wherein the light absorption element includes a high atomic number metal composite. Furthermore, claim 15 calls for each reflector assembly to include a composite layer sandwiched between at least a pair of reflective layers. As such, the product as claimed is not made by another materially different process.

The Examiner also stated that “the CT detector can be made by not forming a substrate of scintillation material.” *Office Action, supra at p. 2*. Claims 1, 15, 34, 36-37, and 41-44 each include a scintillator array. While Examiner concluded that the CT detector can be made by not forming a substrate of scintillation material, the Examiner failed to indicate a process materially different for making the scintillator arrays as called for in the claims. The Examiner merely concluded that forming a substrate of scintillation material is not needed without providing an example of a materially different process used to create the scintillator arrays. As such, the Examiner has not shown that Groups I and II are distinct.

Jiang et al.

S/N: 10/707,405

For all these reasons, Applicant respectfully requests rejoinder of all claims, of each group. The Examiner is invited to call the undersigned to discuss this Election or any other matters regarding this application to expedite prosecution.

Respectfully submitted,



Kent L. Baker
Registration No. 52,584
Phone 262-376-5170 ext. 15
klb@zpspatents.com

Dated: November 30, 2005
Attorney Docket No.: GEMS8081.200

P.O. ADDRESS:
Ziolkowski Patent Solutions Group, SC
14135 North Cedarburg Road
Mequon, WI 53097-1416
262-376-5170